

Transcript of the Testimony of  
**Martin Potter**

**Date:** November 9, 2022

**Case:** Joe DaSilva, Jr. v. Christine Wormuth

American Reporting, Inc.  
Phone: 248-559-6750  
Fax: 248-559-9918  
Email: [scheduling@american-reporting.com](mailto:scheduling@american-reporting.com)  
Internet: [american-reporting.com](http://american-reporting.com)

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1 MR. ALTMAN: Yeah. It just makes for a little bit of  
2 a cleaner record.

3 MARTIN POTTER,  
4 a witness herein, after having first been duly sworn, testified  
5 as follows:

6 CROSS-EXAMINATION

7 BY MR. ALTMAN:

8 Q. Chief Potter, you would agree that you were found  
9 responsible for sexually harassing Joe DeSilva and the  
10 finding was dated approximately the 22nd of May 2018,  
11 correct?

12 MR. KONCIUS: Objection, foundation.

13 Go ahead.

14 MR. ANCHILL: Objection, compound, form.

15 THE WITNESS: I have not seen any documentation that  
16 says I was founded in sexual harassment.

17 Q. (By Mr. Altman) You agree you were found responsible for  
18 something in approximately May of 2018, correct?

19 A. Yes, sir.

20 Q. What was your understanding of what you were found  
21 responsible for?

22 A. An inappropriate comment.

23 Q. An inappropriate comment. That wasn't the first time that  
24 Mr. DaSilva had made a complaint against you about your  
25 comments, correct?

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1 MR. ANCHILL: Objection, foundation.

2 THE WITNESS: That is the first time that I became  
3 aware of any complaint from DaSilva.

4 Q. (By Mr. Altman) You weren't aware of a complaint a couple  
5 years before where you signed a consent agreement that  
6 said you were not going to engage in such conduct?

7 MR. ANCHILL: Objection --

8 MR. KONCIUS: Objection, foundation. Go ahead.

9 THE WITNESS: To my knowledge, I have not signed any  
10 consent agreement from 2017.

11 Q. (By Mr. Altman) Okay. So you're saying you were never  
12 made aware of a complaint from Mr. DaSilva previously to  
13 the instant one we are dealing with?

14 MR. KONCIUS: Same objection.

15 THE WITNESS: That is correct.

16 Q. (By Mr. Altman) And you never agreed to not engage in  
17 such conduct?

18 MR. ANCHILL: Objection, form.

19 THE WITNESS: Can you be more specific, sir?

20 Q. (By Mr. Altman) You're saying you never agreed to not  
21 engage in harassing conduct towards Mr. DaSilva previous  
22 to this instant matter?

23 A. That's correct.

24 MR. KONCIUS: Objection.

25 You're fine.

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1 A. The interrogatories that I explained in the last question.

2 Q. All right. Now, what is your understanding of what you  
3 were found responsible for?

4 A. An inappropriate --

5 Q. And I am referring to this incident.

6 MR. ANCHILL: Objection, asked and answered. Go  
7 ahead.

8 THE WITNESS: An inappropriate comment.

9 Q. (By Mr. Altman) What was the inappropriate comment?

10 A. In this situation the inappropriate comment was asking  
11 about the cost of breast implants.

12 Q. And why did you make that comment to Mr. DaSilva?

13 A. It was a morning gathering where all -- it was at shift  
14 change. Quite a few people were in the kitchen area.  
15 There was a news channel on at the -- the news channel was  
16 going to break and stated that after the break they would  
17 discuss the cost of breast implants. At that point,  
18 Mr. DaSilva was walking towards me and I turned as we were  
19 passing and said, Joe, how much do breast implants cost.

20 Q. Now, I'd like you to take a look at what's previously been  
21 marked as Exhibit 21.

22 MR. ALTMAN: Ben, can you hand him the printed copy  
23 of that?

24 MR. ANCHILL: Yes, I just handed it to him.

25 Q. (By Mr. Altman) And why don't you take a couple of

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1 relations with the dispatcher. That's the extent of my  
2 knowledge. I did not see any final investigation or know  
3 any more than that.

4 Q. Now, as a result of the finding in this particular case,  
5 what sanction were you issued?

6 MR. KONCIUS: Objection to form. Can you restate  
7 that? I'm sorry. I didn't follow, Keith.

8 Q. (By Mr. Altman) As a result of the findings in this  
9 matter, what sanction were you issued?

10 A. Are we back onto Joe DaSilva's complaint?

11 Q. Yes, the matter in this case.

12 A. A letter of counseling.

13 Q. A letter of counseling. That's pretty much the lowest  
14 level of discipline you can receive, correct?

15 MR. ANCHILL: Objection, foundation.

16 THE WITNESS: No, sir. There is a verbal warning  
17 that is below that.

18 Q. (By Mr. Altman) Now, when Mr. DaSilva was seeking a  
19 promotion you served on his promotion panel, correct?

20 A. Yes, sir.

21 Q. Who was on the promotion panel?

22 A. Chief Ball was the lead, but I do not believe he scored.  
23 I believe the other individuals would've been Adam Todd,  
24 who is the assistant chief of training. Assistant Chief  
25 Leslie Tillman. I believe one of the others was

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1 right?

2 A. No, sir.

3 Q. Now, you sat on the panel for Mr. DaSilva, correct?

4 A. Yes, sir.

5 Q. So somebody specifically selected you to be on that panel,  
6 correct?

7 MR. ANCHILL: Objection, foundation.

8 THE WITNESS: I'm assuming that somebody had named me  
9 to that panel. I didn't name myself.

10 Q. (By Mr. Altman) I understand, but you weren't  
11 automatically on Mr. DaSilva's panel, correct?

12 MR. ANCHILL: Objection, foundation.

13 THE WITNESS: I was not part of the process to select  
14 the panel. I do not know what went into the selecting  
15 panel.

16 Q. (By Mr. Altman) But I'm saying it wasn't automatic that  
17 you would be on Mr. DaSilva's panel just simply because of  
18 your position, right?

19 MR. ANCHILL: Objection, foundation.

20 THE WITNESS: It was a normal process for the  
21 assistant chiefs that were available to sit on a promotion  
22 panel.

23 Q. (By Mr. Altman) But were the assistant chiefs always on  
24 every promotion panel?

25 MR. ANCHILL: Objection, foundation.

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1           them.

2       Q.     And you know it's because of this finding?

3           MR. KONCIUS:   Objection to form.

4           You can answer, if you can.

5           THE WITNESS:   The supervisor during the counseling  
6       session didn't give any indication of a change in  
7       performance other than this incident.   So my only  
8       assumption can be that if my performance was what it had  
9       been up to this point which was outstanding on every  
10      evaluation that this was the main factor that affected my  
11      evaluation that year.

12     Q.     (By Mr. Altman)   But the evaluator never explicitly told  
13      you this, correct?

14     A.     Well, there are multiple performance elements and on the  
15      one in regards to EE0 that covers all of these elements,  
16      he absolutely spoke to this.

17     Q.     Spoke to us?

18     A.     Excuse me?

19     Q.     You said spoke to us?

20     A.     Spoke to this, meaning this action -- this incident.

21     Q.     Oh, I thought you said to us.   Okay.

22           Did you receive any additional training other than  
23      the training that everybody receives?

24     A.     The training that you are referring to that everyone  
25      received was what was imposed for the station.   All

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1 personnel within the fire department, in fact all of the  
2 personnel within DES received all of the same training.

3 Q. So you didn't receive anything special as a result of it?

4 MR. ANCHILL: Objection, form.

5 THE WITNESS: Not that I recall.

6 If I may, the supervisors received a specific  
7 supervisory EEO SHARP training. That was directed at the  
8 supervisors only.

9 Q. (By Mr. Altman) I understand, but it wasn't directed at  
10 you personally because of this incident?

11 MR. ANCHILL: Objection, foundation.

12 THE WITNESS: Not that I recall.

13 MR. ALTMAN: I have no further questions. Thank you,  
14 Chief Potter.

15 THE WITNESS: Thank you.

16 Sir, if I may go back to one of the answers you asked  
17 in regards to the cases of sexual harassment that I  
18 witnessed within the station, there is one follow-on on  
19 that in which it involved Mr. DaSilva and an individual  
20 during a fire inspection and this individual was pregnant.  
21 He had touched her belly unwanted and she had approached  
22 the station. She was accepting of what the supervisor at  
23 the time did and did not go forward with a sexual  
24 harassment complaint.

25 Q. (By Mr. Altman) Is there a question there?



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CERTIFICATE OF NOTARY - COURT RECORDER

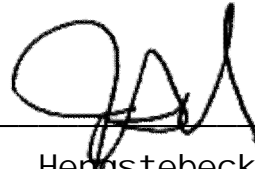
STATE OF MICHIGAN)

)

COUNTY OF OAKLAND)

I, James A. Hengstebeck, a Notary Public in and for the above county and state, do hereby certify that witness MARTIN POTTER remotely appeared before me at the time hereinbefore set forth; that the witness was by me first duly sworn to testify to the truth, the whole truth and nothing but the truth; that thereupon the foregoing questions were asked and foregoing answers made by the witness which were duly recorded by me; that it was later reduced to written form under my direction and supervision, and that this is, to the best of my knowledge and belief, a true and correct transcript.

I further certify that I am neither of counsel to either party nor interested in the outcome of this case.



James A. Hengstebeck, CER 4623,  
Notary Public, Oakland County,  
Michigan

My Commission Expires: 10-30-2028

